

**ASSEMBLY BILL**

**No. 122**

**Introduced by Assembly Member Spitzer**

January 13, 2005

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An act to amend Section 1597.531 of, and to add Section 1596.794 to, the Health and Safety Code, relating to child day care.

LEGISLATIVE COUNSEL'S DIGEST

AB 122, as introduced, Spitzer. Family day care.

Under existing law, the State Department of Social Services regulates the licensure and operation of various types of child day care facilities, including, but not limited to, family day care homes and day care centers. Existing law designates the minimum required amount of either liability insurance or a bond, that a family day care home for children is required to maintain to cover injury to clients and guests sustained on account of the negligence of the licensee or its employees. Existing law authorizes a family day care home, in lieu of that insurance or bond, to maintain a file of affidavits signed by each parent with a child enrolled in the home, stating that the parent has been informed that the family day care home does not carry liability insurance or a bond. Violation of the provisions relating to child day care facilities is a misdemeanor.

This bill would require all child day care facilities not subject to existing liability insurance or bond requirements to maintain sufficient liability insurance or a bond to cover injury to clients and guests. The bill would require the amount of the insurance or bond to be at least equal to the amounts required for family day care homes, or a greater amount determined by the department.

This bill would delete the authority of a family day care home to maintain the file of parent affidavits in lieu of the required insurance

or bond, as of January 1, 2006. The bill would give a family day care home maintaining a file of parent affidavits on January 1, 2006, until March 31, 2006, to secure the required insurance or bond, and would declare parent affidavits null and void after that date. The bill would require the department to adopt or revise regulations to implement the bill.

By expanding the definition of a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1596.794 is added to the Health and  
2 Safety Code, to read:

3 1596.794. A child day care facility that is not a family day  
4 care home for children subject to Section 1597.531 shall  
5 maintain in force either sufficient liability insurance or a bond  
6 covering injury to clients and guests sustained on account of the  
7 licensee or its employees. The amount of the insurance or bond  
8 shall be at least equal to the amounts required in Section  
9 1597.531, or in a greater amount as determined by the  
10 department.

11 SEC. 2. Section 1597.531 of the Health and Safety Code is  
12 amended to read:

13 1597.531. (a) ~~At~~(1) A family day care ~~homes~~home for  
14 children shall maintain in force either liability insurance covering  
15 injury to clients and guests in the amount of at least one hundred  
16 thousand dollars (\$100,000) per occurrence and three hundred  
17 thousand dollars (\$300,000) in the total annual aggregate,  
18 sustained on account of the negligence of the licensee or its  
19 employees, or a bond in the aggregate amount of three hundred  
20 thousand dollars (\$300,000). ~~It~~Until January 1, 2006, in lieu of  
21 the liability insurance or the bond, the family day care home may

maintain a file of affidavits signed by each parent with a child enrolled in the home which meets the requirements of this subdivision. The affidavit shall state that the parent has been informed that the family day care home does not carry liability insurance or a bond according to standards established by the state. If the provider does not own the premises used as the family day care home, the affidavit shall also state that the parent has been informed that the liability insurance, if any, of the owner of the property or the homeowners' association, as appropriate, may not provide coverage for losses arising out of, or in connection with, the operation of the family day care home, except to the extent that the losses are caused by, or result from, an action or omission by the owner of the property or the homeowners' association, for which the owner of the property or the homeowners' association would otherwise be liable under the law. These affidavits shall be on a form provided by the department and shall be reviewed at each licensing inspection.

*(2) A family day care home that maintains a parent affidavit file on January 1, 2006, shall have until March 31, 2006, to secure liability insurance or a bond in accordance with paragraph (1). After March 31, 2006, a parent affidavit shall be null and void and may not be asserted as a defense for failure to comply with the minimum liability insurance and bond requirements of this section.*

*(3) The department shall adopt or revise applicable regulations as necessary to implement this subdivision.*

(b) A family day care home ~~that maintains liability insurance or a bond pursuant to this section, and~~ that provides care in premises that are rented or leased or uses premises which share common space governed by a homeowners' association, shall name the owner of the property or the homeowners' association, as appropriate, as an additional insured party on the liability insurance policy or bond if all of the following conditions are met:

(1) The owner of the property or governing body of the homeowners' association makes a written request to be added as an additional insured party.

(2) The addition of the owner of the property or the homeowners' association does not result in cancellation or

1 nonrenewal of the insurance policy or bond carried by the family  
2 day care home.

3 (3) Any additional premium assessed for this coverage is paid  
4 by the owner of the property or the homeowners' association.

5 (c) As used in this section, "homeowners' association" means  
6 an association of a common interest development, as defined in  
7 Section 1351 of the Civil Code.

8 SEC. 3. No reimbursement is required by this act pursuant to  
9 Section 6 of Article XIII B of the California Constitution because  
10 the only costs that may be incurred by a local agency or school  
11 district will be incurred because this act creates a new crime or  
12 infraction, eliminates a crime or infraction, or changes the  
13 penalty for a crime or infraction, within the meaning of Section  
14 17556 of the Government Code, or changes the definition of a  
15 crime within the meaning of Section 6 of Article XIII B of the  
16 California Constitution.